

Structural Pest Control Board

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, Howe Avenue Complex, 1424 Howe Avenue, Conference Room F, Sacramento, CA, at 9:00 AM on July 15, 2005. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Structural Pest Control Board at its office no later than 5:00 PM on July 14, 2005 or must be received by the Structural Pest Control Board at the hearing. The Structural Pest Control Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by section 8525 of the Business and Professions Code, and to implement, interpret or make specific sections 125.9, 148, 8505.7, 8505.13, 8516, 8525, 8538, of said Code, the Structural Pest Control Board is considering changes to Division 19 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1. Amend 1920 Citations and Fines

Section 1920 of the California Code of Regulations authorizes the Registrar or Deputy Registrar of the Structural Pest Control Board (Board) to issue an administrative fine for violations of the statutes contained in the Structural Pest Control Act or the regulations adopted by the Board.

Senate Bill 362 (Stats. 2003, Chapter 788) changed the maximum amount of an administrative fine levied upon licensees from \$2500 to \$5000. In December 2003, the Board amended section 1920 of the California Code of Regulations to correspond with Business and Professions Code 125.9. The Department of Consumer Affairs has since requested that the Board incorporate criteria under which the maximum fine may be imposed.

2. Amend 1970.4 Pesticide Disclosure Requirement

Business and Professions Code section 8538 requires the registered structural pest control company to provide the owner, or owner's agent, and tenant of the premises for which the fumigation work is to be done with a clear written notice (Form 43M-48) regarding the pest being controlled and pesticide used.

Reports of pets being trapped under tarps during fumigations have prompted this amendment. This proposal would amend the existing Occupants Fumigation Notice and Pesticide Disclosure Form 43M-48, to include language suggesting that the occupants notify their nearby neighbors of the date of fumigation, keep pets away during the fumigation, and close off any open access to subareas in order to prevent pet entry prior to and during a fumigation.

3. Amend 1991(a)(9) Report Requirements Under Section 8516(b)(10)

Section 8516 of the Business and Professions Code provides guidelines for wood destroying pests and organisms. Section 1991 of the California Code of Regulations is specific to subterranean termite infestations and the elimination of accessible subterranean termite tubes, without addressing above ground termite bait stations.

This proposal would amend section 1991 to include the use of above ground termite bait stations that require the use of the termite tubes in order to be effective, in which case the tubes would remain in place for the purpose of placement of the termite bait stations, removing the subterranean termite tubes only at the end of the treatment.

4. Amend 1996 Requirements for Reporting All Inspections Under Section 8516(b)

Senate Bill 1307 (Stats. 1999, Chapter 983) amended sections of the Business and Professions Code to eliminate the requirement for registered companies to file inspection reports and notices of work completed and not completed with the Board. The bill created a requirement for registered companies to report and file with the Board only the addresses of properties inspected and the addresses of properties upon which work is completed.

Section 1996 of the California Code of Regulations still requires that inspection reports and notices of work completed be filed with the Board. This regulatory proposal would eliminate references to the filing of reports with the Board and would instead require that structural pest control companies deliver the report to the person requesting the inspection, or to their designated agent.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The Structural Pest Control Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Structural Pest Control Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Structural Pest Control Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

Section 1920 will have no affect on small businesses because the proposal is adding criteria that will clarify when the Board may impose the maximum fine of \$5,000.

Section 1970.4 will have some affect on small businesses because the proposal amends an existing form to include language that suggests nearby neighbors be notified of the date of fumigation and to keep their pets away during the fumigation. However, as business practices vary, businesses could amend the form either internally and/or externally.

Section 1991(a)(9) will have no affect on small businesses because the proposal merely defines that above ground termite bait stations which require subterranean termite tubes in order to be effective may remain in place for the purpose of placement of those stations, with removal of the termite tubes at the end of treatment.

Section 1996 will have no affect on small businesses because the proposal is merely clean-up language as a result of Senate Bill 1307 Chaptered in 1999 and pest control companies have been in compliance with the law since 2000. Therefore, nothing is changing regarding the way companies currently do business.

CONSIDERATION OF ALTERNATIVES

The Structural Pest Control Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Structural Pest Control Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Structural Pest Control Board at 1418 Howe Avenue, Suite 18, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Barbara Howe
Address: 1418 Howe Avenue, Suite 18
Sacramento, CA. 95825
Telephone No.: (916) 561-8718
Fax No.: (916) 263-2469
E-Mail Address: Barbara_Howe@dca.ca.gov

The backup contact person is:

Name: Susan Saylor
Address: 1418 Howe Avenue, Suite 18
Sacramento, CA. 95825
Telephone No.: (916) 561-8700
Fax No.: (916) 263-2469
E-Mail Address: Susan_Saylor@dca.ca.gov

Website Access: Materials regarding this proposal can be found at
www.pestboard.ca.gov